
OLR Bill Analysis

sHB 5598

AN ACT CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND THE DISPOSITION OF SURPLUS STATE PROPERTY, SHORT TERM EMERGENCY LEASES, THE DEFINITION OF EXECUTIVE SESSION AND DUPLICATIVE STATEMENTS OF FINANCIAL INTEREST.

SUMMARY:

This bill modifies the process for disposing of surplus state property. Among other things, it:

1. requires state agencies to give the Office of Policy and Management (OPM) secretary and affected municipality at least six months' notice of property that is expected to become surplus;
2. requires various commissioners, within 30 days of receiving notice from OPM, to advise the secretary of the property's potential use for their agencies' purposes;
3. requires the secretary, if the property is declared surplus, to hold a public hearing in the affected municipality;
4. gives the affected municipality a one-time opportunity to receive the property (presumably for no cost), but removes the municipality's ability to match later offers made by other parties;
5. requires that notice of available property also be given to the Connecticut Economic Resource Center and the applicable regional planning organization;
6. requires that municipalities receive more frequent updates on a property's status; and

7. repeals a separate process for disposing of certain surplus Department of Correction (DOC) property.

Additionally, the bill allows the Department of Administrative Services (DAS) to enter into leases of up to one year in certain emergency situations without OPM or State Properties Review Board (SPRB) approval. It extends to state agencies a Freedom of Information Act (FOIA) provision that allows political subdivisions to hold executive sessions to discuss real estate transactions or site selections.

The bill eliminates a requirement that SPRB members and nonclerical employees in DAS's unit that acquires, leases, and sells real property file a statement of financial interests with SPRB or DAS as appropriate. It maintains the requirement that these members and employees file such a statement with the Office of State Ethics (§ 8).

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2013, except that the FOIA and leasing provisions are effective upon passage.

§§ 1, 2, & 10 — SURPLUS PROPERTY DISPOSITION

Notice of Surplus Property

The bill requires state agencies, departments, and institutions (agencies) to give the OPM secretary written notice at least six months before they anticipate that they will no longer need land, or an improvement to or interest in land (property), in their custody and control. Under current law, agencies do not notify OPM of available property until they determine that it is no longer needed. The bill also requires the agency to notify the municipality in which the property is located at the same time it notifies OPM.

Under current law, upon receiving notice of surplus property, the OPM secretary must arrange for custody and control of the property to be transferred to DAS, along with adequate funding for personnel and other operating expenses required to maintain the property. The bill instead gives the secretary discretion to decide whether to (1) transfer the property to DAS or (2) require the agency to maintain custody and

control. It also specifies that the funding includes, at the secretary's discretion, any available funds for maintenance purposes, rather than adequate funding.

By law, the OPM secretary must notify all state agencies of the available property. Currently, an agency that is interested in the property, upon receiving this notice, has 90 days to submit to the secretary a plan for its use. The bill shortens this period to 30 days.

Use by Other State Agencies

Under current law, the Department of Economic and Community Development (DECD) has the right of first refusal for available state property and must be given custody and control of a property if the department:

1. determines that the property can be (a) used for an emergency shelter or a transitional living facility for homeless people or (b) used or exchanged for property that can be used for the construction, rehabilitation, or renovation of housing for low- or moderate-income individuals or families;
2. submits to OPM a preliminary plan for the property within 90 days after receiving notification of the property's availability; and
3. submits to OPM a comprehensive plan for the property within six months after the 90-day period ends.

The bill eliminates this right of first refusal. It instead requires the commissioners of the following agencies to notify the OPM secretary in writing, no later than 30 days after receiving notice from the secretary, if the land, improvement, or interest serves the following needs:

1. DECD, whether, in addition to the above possible uses, it can be used or adapted for economic development or exchanged for property that can be used for economic development;

2. the Department of Transportation, transportation purposes;
3. the Department of Energy and Environmental Protection, open space purposes or otherwise support the department's mission;
4. the Department of Agriculture, farming or agricultural purposes;
5. the Department of Veterans' Affairs, veterans' housing;
6. the departments of Children and Families and Developmental Services, to support their missions; and
7. DAS, to house state agencies or to be leased.

The bill does not require the secretary to give these possible uses preference over plans submitted by other agencies. By law, if one or more agencies submit a plan for the property, the secretary must determine whether to transfer the property to one of those agencies or treat it as surplus.

Transfer to Affected Municipality

Under current law, if a property is determined to be surplus, the state must first offer to sell it to the municipality in which it is located, subject to conditions of sale acceptable to the state. The bill instead requires that the state offer to transfer the property (presumably at no cost) to the municipality.

Under the bill, the OPM secretary must first hold an informational public meeting in the municipality in which the property is located. The meeting must describe the property and the disposition process, allow public comment, and inform the public of its right to submit written comments to the secretary, including comments on the land's natural or recreational resources.

The bill requires the secretary, after the meeting, to notify the DAS commissioner that the property may be treated as surplus. The commissioner must then offer to transfer the property to the municipality.

Under the bill, the municipality has 120 days from receiving this notification to accept the transfer, but the DAS commissioner can extend this period by up to 60 days. To accept the property, the municipality must (1) by a vote of its legislative body, accept the transfer and (2) deliver a resolution of the action, verified by the municipal clerk, to the commissioner. If the municipality does not act within the specified time period, it is deemed to have declined the transfer.

Under current law, if the municipality declines to purchase surplus property, it retains the right to purchase it later by matching the terms of a proposed sale to another entity, so long as those terms are different from those offered to the municipality. The bill eliminates this right by specifying that the municipality waives all rights to purchase the property if it declines or is deemed to decline the transfer.

Sale to Other Entities

Under current law, the DAS commissioner may sell, exchange, lease or enter into agreements concerning surplus property after notifying (1) the municipality where it is located, (2) the state legislators who represent the municipality, and (3) potential incentive housing developers who have registered with DECD. The bill requires the commissioner to also notify the (1) regional planning organization of the region where the property is located and (2) Connecticut Economic Resource Center. By law, regional planning organizations include regional councils of government, regional councils of elected officials, and regional planning agencies.

The bill also requires that municipalities and their state legislators receive more frequent updates on a property's status. Under current law, if a proposed agreement for a surplus property is not (1) submitted to SPRB within three years of notifying the municipality and its state legislators or (2) approved by SPRB within five years of this notice, the municipality and its legislators must be re-notified of its availability. The bill shortens these periods to one year and two years, respectively.

Legislative Approval

By law, the DAS commissioner must submit sales of surplus state property to the legislature's Finance and Government Administration and Elections committees. The committees have 30 days from receipt of an agreement to approve or disapprove it; the agreement is deemed approved if the committees do not act within this time. The bill allows the committees to notify the DAS commissioner, in writing, that they waive their right to convene a meeting concerning the sale.

Surplus DOC Property

The bill repeals a separate process for disposing of surplus community correctional center properties, thus subjecting them to the above process. Under the separate process, if DOC declares that a community correctional center is surplus, the property must first be offered, for no cost, to either the municipality or its redevelopment agency. If the transfer is declined, the property must be auctioned to the highest bidder.

§ 6 — EMERGENCY LEASES

By law, most proposed leases by state agencies must be (1) included in the State Facilities Plan, which the OPM secretary develops and (2) approved by SPRB. The bill allows DAS to enter into leases of up to one year, without OPM or SPRB approval, if the governor declares that (1) an emergency exists because a state facility has been damaged, destroyed, or otherwise rendered unusable; (2) the emergency would adversely affect public safety or the proper conduct of essential state government operations; and (3) the state has an immediate need to acquire alternative space.

§ 7 — FOIA

Under FOIA, political subdivisions can meet in executive session to discuss the selection of a site or the lease, sale, or purchase of real estate if publicity surrounding the selection or transaction is likely to cause a price increase. The provision applies until all of the property has been acquired or all proceedings or transactions have been terminated or abandoned.

The bill instead specifies that an executive session is permitted when the publicity would adversely impact the price of the site, lease, sale, purchase, or construction (e.g., an increased price if the agency is the buyer or a decreased price if the agency is the seller). Additionally, it extends to state agencies the ability to meet in executive session for these reasons.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute Change of Reference

Yea 13 Nay 0 (03/04/2013)

Planning and Development Committee

Joint Favorable

Yea 19 Nay 0 (04/01/2013)